IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

DATAQUILL LIMITED,

Plaintiff,

V.

ZTE (USA) INC.,

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JURY TRIAL REQUESTED

DATAQUILL'S MOTION FOR ENTRY OF FINAL JUDGMENT

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 58(d), Plaintiff DataQuill Limited ("DataQuill") submits this Motion for Entry of Final Judgment, which is consistent with the jury verdict and DataQuill's motions for post-trial relief.

II. BACKGROUND FACTS

On June 18, 2015, the jury returned a unanimous verdict in favor of DataQuill, finding infringement of the two DataQuill patents-in-suit, declining to find that the patents-in-suit are invalid, and awarding damages through March 2015 in the amount of \$31.5 million. Dkt. 29. The Court severed all post-verdict damages into a separate action and stayed the newly-severed action until further order of the Court. Dkt. 59. In light of that Order, DataQuill is not filing a motion for ongoing royalties at this time. DataQuill is prepared to file a motion for ongoing royalties when directed by the Court.

Concurrent with this Motion, DataQuill is filing: (1) a motion for prejudgment interest and supplemental damages; and (2) a motion for taxable costs. DataQuill collectively seeks the following relief:

- supplemental damages in the amount of \$1.01 per unit for each ZTE Android phone made, used, sold, offered for sale, or imported between April 1, 2015, and June 18, 2015;
- pre-judgment interest based on the prime rate compounded annually in the amount of \$1,631,494 for damages until June 18, 2015, plus an additional \$2,950 per day thereafter until this Court enters final judgment;
- post-judgment interest as provided by 28 U.S.C. §1961; and
- taxable costs of \$56,557.19, as provided by Federal Rule of Civil Procedure 54(d)(1).

DataQuill respectfully requests that the Court enter a Final Judgment in a separate document that is consistent with both the jury verdict and DataQuill's other post-trial motions. A proposed Judgment is attached.

III. ARGUMENT

Rule 58(b)(2) states that "the court must promptly approve the form of the judgment, which the clerk must promptly enter, when the jury returns a special verdict or a general verdict with answers to written questions." FED. R. CIV. P. 58. In this case, the jury returned a general verdict with answers to written questions. Dkt. 29. Accordingly, DataQuill respectfully requests that the Court promptly approve the proposed Judgment attached to this motion and order the clerk to promptly enter it as a separate document. FED. R. CIV. P. 58(b)(2); *see also* FED. R. CIV. P. 58(d) ("a party may request that judgment be set out in a separate document as required by Rule 58(a)").

IV. CONCLUSION

For the foregoing reasons and those set forth in DataQuill's other post-trial motions, DataQuill respectfully requests that the Court enter Final Judgment in its favor as set forth in the attached proposed Judgment.

Dated: July 28, 2015 Respectfully submitted,

/s/ Blaine Larson

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Case 2:13-cv-00634-JRG Document 61 Filed 07/28/15 Page 5 of 5 PageID #: 1742

CERTIFICATE OF SERVICE

I hereby certify that the above document was served to all counsel of record via CM/ECF

on July 28, 2015.

<u>/s/ Blaine Larson</u>

Blaine Larson

CERTIFICATE OF CONFERENCE

I hereby certify that prior to filing this motion, counsel for DataQuill conferred with

counsel for ZTE. ZTE agreed to prejudgment interest at the prime rate, compounded annually, as

well as supplemental damages of \$1.01 per accused product as set forth above, and postjudgment

interest at the statutory rate. By agreeing to these issues, ZTE is not waiving its rights to contest

the jury verdict as to both liability and damages. Further, ZTE only agrees to prejudgment

interest, postjudgment interest, and supplemental damages if the Court enters judgment on the

verdict.

/s/ Blaine Larson

Blaine Larson

5